

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

Page 1 of 2

DOCKET NO.: 2007-0622-IWD-E **TCEQ ID:** RN100250034, RN100249556 **CASE NO.:** 33243**RESPONDENT NAME:** Contractor's Supplies, Inc.

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input checked="" type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION
<p>SITE WHERE VIOLATION(S) OCCURRED: Contractor's Supplies, 905 Lake Street, Harrison County, and 417 Calvin Boulevard, Gregg County</p> <p>TYPE OF OPERATION: Ready-mixed concrete plants</p> <p>SMALL BUSINESS: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding these facility locations.</p> <p>INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.</p> <p>COMMENTS RECEIVED: The <i>Texas Register</i> comment period expired on July 16, 2007. No comments were received.</p> <p>CONTACTS AND MAILING LIST: TCEQ Attorney/SEP Coordinator: None TCEQ Enforcement Coordinator: Ms. Cari-Michel LaCaille, Enforcement Division, Enforcement Team 3, MC 149, (512) 239-1387; Mr. Steven Lopez, Enforcement Division, MC 219, (512) 239-1896 Respondent: Mr. David Mooty, President, Contractor's Supplies, Inc., P.O. Box 150140, Lufkin, Texas 75915 Respondent's Attorney: Not represented by counsel on this enforcement matter</p>		

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: March 9, 2007</p> <p>Date of NOE Relating to this Case: April 12, 2007 and April 25, 2007 (NOE)</p> <p>Background Facts: This was a routine records review. Two violations were documented.</p> <p>WATER</p> <p>1) Failure to comply with the permitted effluent limits as documented during a record review conducted on March 9, 2007. Specifically, the Total Suspended Solids ("TSS") daily maximum concentration for the reporting period ending on November 30, 2006 was 138 milligrams per liter ("mg/L") and the daily maximum concentration for the reporting period ending on December 31, 2006 was 113.7 mg/L, which exceeded the 65 mg/L permitted limit for TSS [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1) and General Permit No.110319, Permit Requirements].</p> <p>2) Failed to comply with the permitted Effluent limits for Facility 2. Specifically, the TSS daily maximum concentration for the reporting period ending on November 30, 2006 for Outfall 001A was 138.3 mg/L and for Outfall 003A was 138.3 mg/L. The TSS daily maximum concentration for the the reporting period ending on December 31, 2006 for Outfall 001A was 139 mg/L, which exceeded the 65 mg/L permitted limit for TSS [TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1) and General Permit No. 110197, Permit Requirements, as documented during a record review conducted on March 9, 2007].</p>	<p>Total Assessed: \$4,380</p> <p>Total Deferred: \$876 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid to General Revenue: \$3,504</p> <p>RN100249556 Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>RN100250034 Site Compliance History Classification <input checked="" type="checkbox"/> High <input type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that Contractor's Supplies has implemented the following corrective measures at the Facilities:</p> <p>a. On January 8, 2007, the filter gravel in all run off areas was replaced, both filter bark systems were cleaned and inspected, and service programs have been implemented to ensure the filter bark systems are cleaned and inspected on a monthly basis for Facility 1 and 2; and</p> <p>b. On January 31, 2007, returned to compliance with permitted effluent limits for Facility 1 and 2.</p>



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision November 15, 2006

TCEQ

DATES	Assigned PCW	30-Apr-2007	Screening	1-May-2007	EPA Due	
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RESPONDENT/FACILITY INFORMATION

Respondent	Contractor's Supplies, Inc.		
Reg. Ent. Ref. No.	RN100249556		
Facility/Site Region	5-Tyler	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	33243	No. of Violations	1
Docket No.	2007-0622-IWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Cari-Michel La Caille
Multi-Media		EC's Team	Enforcement Team 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 **\$2,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 57% Enhancement Subtotals 2, 3, & 7 **\$1,140**

Notes: A 57% enhancement is recommended for having one 1660-style Agreed Order, 7 NOVs for self-reported effluent data and one NOV for a non-similar violation within the last five years.

Culpability No 0% Enhancement Subtotal 4 **\$0**

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 25% Reduction Subtotal 5 **\$500**

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes: The Respondent returned to compliance on January 31, 2007.

Total EB Amounts \$17 **0% Enhancement*** Subtotal 6 **\$0**
Approx. Cost of Compliance \$2,000 ***Capped at the Total EB \$ Amount**

SUM OF SUBTOTALS 1-7 Final Subtotal **\$2,640**

OTHER FACTORS AS JUSTICE MAY REQUIRE Adjustment **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Notes:

Final Penalty Amount **\$2,640**

STATUTORY LIMIT ADJUSTMENT Final Assessed Penalty **\$2,640**

DEFERRAL 20% Reduction Adjustment **-\$528**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY **\$2,112**

Screening Date 1-May-2007

Docket No. 2007-0622-IWD-E

PCW

Respondent Contractor's Supplies, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33243

PCW Revision November 15, 2006

Reg. Ent. Reference No. RN100249556

Media [Statute] Water Quality

Enf. Coordinator Carl-Michel La Caille

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOV's with same or similar violations as those in the current enforcement action (number of NOV's meeting criteria)	7	35%
	Other written NOV's	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 57%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

A 57% enhancement is recommended for having one 1660-style Agreed Order, 7 NOV's for self-reported effluent data and one NOV for a non-similar violation within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 57%

Screening Date 1-May-2007

Docket No. 2007-0622-IWD-E

PCW

Respondent Contractor's Supplies, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33243

PCW Revision November 15, 2006

Reg. Ent. Reference No. RN100249556

Media [Statute] Water Quality

Enf. Coordinator Cari-Michel La Caille

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1) and General Permit No.110197, Permit Requirements

Violation Description

Failed to comply with the permitted effluent limits as documented during a record review conducted on March 9, 2007. Specifically, the TSS daily maximum concentration for the reporting period ending on November 30, 2006 for Outfall 001A was 138.3 mg/L and for Outfall 003A was 138.3 mg/L. The TSS daily maximum concentration for the reporting period ending on December 31, 2006 for Outfall 001A was 139 mg/L, which exceeded the 65 mg/L permitted limit for TSS.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

61 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,000

One quarterly event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$17

Violation Final Penalty Total \$1,320

This violation Final Assessed Penalty (adjusted for limits) \$1,320

Economic Benefit Worksheet

Respondent Contractor's Supplies, Inc.
Case ID No. 33243
Reg. Ent. Reference No. RN100249556
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$2,000	30-Nov-2006	31-Jan-2007	0.2	\$17	n/a	\$17

Notes for DELAYED costs

The estimated cost for additional oversight and sampling which could have reduced or alleviated the exceedances. Date required is the date the noncomplianc started and the final date is the compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$17

Compliance History

Customer/Respondent/Owner-Operator: CN600134316 Contractor's Supplies, Inc. Classification: AVERAGE Rating: 2.12
 Regulated Entity: RN100249556 CONTRACTORS SUPPLIES Classification: AVERAGE Site Rating: 1.06
 ID Number(s): WASTE WATER GENERAL PERMIT PERMIT TXG110197
 PETROLEUM STORAGE TANK REGISTRATION 36917
 REGISTRATION
 Location: 417 CALVIN BLVD, GREGG COUNTY, TX 75602 Rating Date: September 01 06 Repeat Violator: NO
 TCEQ Region: REGION 05 - TYLER
 Date Compliance History Prepared: May 02, 2007
 Agency Decision Requiring Compliance History: Enforcement
 Compliance Period: May 02, 2002 to May 02, 2007
 TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
 Name: Cari-Michel La Caille Phone: 512-239-1387

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A Effective Date: 08/13/2004 ADMINORDER 2003-1359-WQ-E
 Classification: Moderate
 Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
 TWC Chapter 26 26.121
 Rqmt Prov: Effluent Limits PERMIT
 Description: Failed to comply with the permitted discharge limitation.

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1 07/29/2002 (242309)
 2 07/29/2002 (242306)
 3 07/29/2002 (242304)
 4 10/21/2002 (242318)
 5 10/21/2002 (242315)
 6 10/21/2002 (242312)
 7 01/27/2003 (242321)
 8 01/27/2003 (242327)
 9 01/27/2003 (242324)
 10 04/28/2003 (242302)
 11 04/28/2003 (242299)
 12 04/28/2003 (242296)
 13 05/27/2003 (252093)
 14 06/20/2003 (331451)
 15 06/20/2003 (331452)
 16 07/29/2003 (331453)
 17 09/08/2003 (331454)
 18 10/14/2003 (331455)
 19 10/14/2003 (331456)

20	10/29/2003	(253677)
21	02/03/2004	(331457)
22	02/03/2004	(331458)
23	02/03/2004	(331459)
24	03/09/2004	(331448)
25	03/09/2004	(331449)
26	04/12/2004	(331450)
27	05/14/2004	(369439)
28	05/14/2004	(369440)
29	06/21/2004	(369441)
30	07/26/2004	(369442)
31	08/19/2004	(369443)
32	09/20/2004	(369444)
33	11/18/2004	(369445)
34	01/31/2005	(391575)
35	03/02/2005	(391574)
36	04/26/2005	(429034)
37	04/29/2005	(429033)
38	05/31/2005	(429035)
39	07/11/2005	(448677)
40	08/30/2005	(448678)
41	08/30/2005	(448679)
42	11/09/2005	(495184)
43	11/09/2005	(495186)
44	12/06/2005	(495185)
45	12/28/2005	(495187)
46	01/27/2006	(495188)
47	03/27/2006	(495182)
48	03/27/2006	(495183)
49	05/02/2006	(507594)
50	06/05/2006	(507595)
51	06/05/2006	(507593)
52	07/20/2006	(529801)
53	07/20/2006	(529807)
54	07/27/2006	(507596)
55	08/25/2006	(529803)
56	08/28/2006	(510162)
57	08/29/2006	(529802)
58	08/30/2006	(529804)
59	08/30/2006	(529808)
60	09/15/2006	(529805)
61	10/20/2006	(529806)
62	11/17/2006	(552748)
63	12/21/2006	(552749)
64	01/22/2007	(552750)
65	02/21/2007	(552747)
66	04/25/2007	(543629)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date 06/30/2002 (242309)

Self Report? YES

Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date 02/28/2003 (242299)

Self Report? YES

Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date 03/31/2003 (242302)

Self Report? YES

Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date 08/31/2003 (331455)

Self Report? YES

Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date 09/30/2003 (331456)

Self Report? YES

Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date 06/27/2006 (510162)

Self Report? NO

Classification Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: PERMIT Self-reporting Requirements

Description: Using unapproved self-generated Discharge Monitoring Report (DMR) forms to report monitoring results.

Date 11/30/2006 (552749)

Self Report? YES

Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date 12/31/2006 (552750)

Self Report? YES

Classification Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision November 15, 2006

TCEQ

DATES	Assigned	16-Apr-2007	Screening	19-Apr-2007	EPA Due	
	PCW	19-Apr-2007				

RESPONDENT/FACILITY INFORMATION

Respondent	Contractor's Supplies, Inc.		
Reg. Ent. Ref. No.	RN100250034		
Facility/Site Region	5-Tyler	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	33243	No. of Violations	1
Docket No.	2007-0622-IWD-E	Order Type	1660
Media Program(s)	Water Quality	Enf. Coordinator	Cari-Michel La Caille
Multi-Media		EC's Team	EnforcementTeam 4
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) Subtotal 1 \$2,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History 12% Enhancement Subtotals 2, 3, & 7 \$240

Notes: A 12% enhancement is recommended for having two NOV's for self-reported effluent data and one NOV for a non-similar violation within the last five years.

Culpability No 0% Enhancement Subtotal 4 \$0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply 25% Reduction Subtotal 5 \$500

Before NOV NOV to EDPRP/Settlement Offer

Extraordinary	
Ordinary	X
N/A	(mark with x)

Notes: The Respondent returned to compliance on January 31, 2007.

Total EB Amounts	\$17	0% Enhancement*	Subtotal 6	\$0
Approx. Cost of Compliance	\$2,000	*Capped at the Total EB \$ Amount		

SUM OF SUBTOTALS 1-7 Final Subtotal \$1,740

OTHER FACTORS AS JUSTICE MAY REQUIRE

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Adjustment \$0

Notes

Final Penalty Amount \$1,740

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$1,740

DEFERRAL

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

20% Reduction Adjustment -\$348

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY \$1,392

Screening Date 19-Apr-2007

Docket No. 2007-0622-IWD-E

PCW

Respondent Contractor's Supplies, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33243

PCW Revision November 15, 2006

Reg. Ent. Reference No. RN100250034

Media [Statute] Water Quality

Enf. Coordinator Carl-Michel La Caille

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	2	10%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 12%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance History Notes

A 12% enhancement is recommended for having two NOVs for self-reported effluent data and one NOV for a non-similar violation within the last five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 12%

Screening Date 19-Apr-2007

Docket No. 2007-0622-IWD-E

PCW

Respondent Contractor's Supplies, Inc.

Policy Revision 2 (September 2002)

Case ID No. 33243

PCW Revision November 15, 2006

Reg. Ent. Reference No. RN100250034

Media [Statute] Water Quality

Enf. Coordinator Cari-Michel La Caille

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a), 30 Tex. Admin. Code § 305.125(1) and General Permit No.110319, Permit Requirements

Violation Description

Failed to comply with the permitted effluent limits as documented during a record review conducted on March 9, 2007. Specifically, the Total Suspended Solids ("TSS") daily maximum concentration for the reporting period ending on November 30, 2006 was 138 milligrams per liter ("mg/L") and the daily maximum concentration for the reporting period ending on December 31, 2006 was 113.7 mg/L, which exceeded the 65 mg/L permitted limit for TSS.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

61 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,000

One quarterly event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$17

Violation Final Penalty Total \$870

This violation Final Assessed Penalty (adjusted for limits) \$870

Economic Benefit Worksheet

Respondent Contractor's Supplies, Inc.
Case ID No. 33243
Reg. Ent. Reference No. RN100250034
Media Water Quality
Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$2,000	30-Nov-2006	31-Jan-2007	0.2	\$17	n/a	\$17

Notes for DELAYED costs

The estimated cost for additional oversight and sampling which could have reduced or alleviated the exceedances. Date required is the date the noncomplance started and the final date is the compliance date.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$17

Compliance History

Customer/Respondent/Owner-Operator:	CN600134316	Contractor's Supplies, Inc.	Classification: AVERAGE	Rating: 2.12
Regulated Entity:	RN100250034	CONTRACTORS SUPPLIES	Classification: HIGH	Site Rating: 0.09
ID Number(s):	WASTE WATER GENERAL PERMIT	PERMIT	TXG110319	
	AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HH0213J	
	PETROLEUM STORAGE TANK	REGISTRATION	75931	
	REGISTRATION			
Location:	905 LAKE ST, HARRISON COUNTY, TX, 75670	Rating Date: 9/1/2006	Repeat Violator: NO	
TCEQ Region:	REGION 05 - TYLER			
Date Compliance History Prepared:	April 16, 2007			
Agency Decision Requiring Compliance History:	Enforcement			
Compliance Period:	April 16, 2002 to April 16, 2007			

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Cari-Michel La Caille Phone: 512-239-1387

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

N/A

- B. Any criminal convictions of the state of Texas and the federal government.

N/A

- C. Chronic excessive emissions events.

N/A

- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

N/A

1	04/25/2002	(244334)
2	04/25/2002	(244335)
3	04/25/2002	(244336)
4	06/20/2003	(331896)
5	06/20/2003	(331897)
6	07/29/2003	(331899)
7	09/08/2003	(331900)
8	10/14/2003	(331901)
9	11/24/2003	(331902)
10	01/12/2004	(331903)
11	02/02/2004	(331904)
12	03/09/2004	(331893)
13	03/29/2004	(331894)
14	04/12/2004	(331895)
15	05/14/2004	(369825)
16	06/18/2004	(331898)
17	07/26/2004	(369826)
18	08/16/2004	(369827)
19	09/20/2004	(369828)
20	10/29/2004	(369829)
21	11/18/2004	(391694)
22	12/17/2004	(391695)
23	01/31/2005	(391696)
24	03/02/2005	(391692)
25	03/31/2005	(391693)

26	04/29/2005	(429143)
27	05/31/2005	(429144)
28	07/11/2005	(448745)
29	08/30/2005	(448746)
30	09/26/2005	(448747)
31	11/09/2005	(495428)
32	12/06/2005	(495429)
33	01/27/2006	(495430)
34	03/03/2006	(495426)
35	03/27/2006	(495427)
36	05/02/2006	(507734)
37	06/05/2006	(507735)
38	07/27/2006	(507736)
39	08/25/2006	(510278)
40	09/01/2006	(530024)
41	09/01/2006	(530026)
42	09/01/2006	(530027)
43	09/01/2006	(530029)
44	09/01/2006	(530031)
45	09/15/2006	(530028)
46	09/18/2006	(530025)
47	10/20/2006	(530030)
48	11/17/2006	(552864)
49	12/21/2006	(552865)
50	01/22/2007	(552866)
51	02/21/2007	(552862)
52	02/21/2007	(552863)
53	04/12/2007	(543642)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 06/28/2006 (510278)

Self Report? NO

Classification: Minor

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

Rqmt Prov: PERMIT Self-reporting Requirements

Description: Using unapproved self-generated Discharge Monitoring Report (DMR) forms to report monitoring results.

Date: 11/30/2006 (552865)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

Date: 12/31/2006 (552866)

Self Report? YES

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)

TWC Chapter 26 26.121(a)[G]

Description: Failure to meet the limit for one or more permit parameter

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
CONTRACTOR'S SUPPLIES, INC.
RN100250034, RN100249556

§ BEFORE THE
§ TEXAS COMMISSION ON
§ ENVIRONMENTAL QUALITY
§

AGREED ORDER DOCKET NO. 2007-0622-IWD-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Contractor's Supplies, Inc. ("Contractor's Supplies") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and Contractor's Supplies appear before the Commission and together stipulate that:

1. Contractor's Supplies owns and operates ready-mixed concrete plants at the following locations (the "Facilities"):
 - a. 905 Lake Street in Harrison County, Texas ("Facility 1").
 - b. 417 Calvin Boulevard in Gregg County, Texas ("Facility 2").
2. Contractor's Supplies has discharged industrial waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. The Commission and Contractor's Supplies agree that the Commission has jurisdiction to enter this Agreed Order, and that Contractor's Supplies is subject to the Commission's jurisdiction.
4. Contractor's Supplies received notice of the violations alleged in Section II ("Allegations") on or about April 17, 2007 and April 30, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by Contractor's Supplies of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Four Thousand Three Hundred Eighty Dollars (\$4,380) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). Contractor's Supplies has paid Three Thousand Five Hundred Four Dollars (\$3,504) of the administrative penalty and Eight Hundred Seventy-Six Dollars (\$876) is deferred contingent upon Contractor's Supplies' timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If Contractor's Supplies fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require Contractor's Supplies to pay all or part of the deferred penalty.
7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and Contractor's Supplies have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that Contractor's Supplies has implemented the following corrective measures at the Facilities:
 - a. On January 8, 2007, the filter gravel in all run off areas was replaced, both filter bark systems were cleaned and inspected, and service programs have been implemented to ensure the filter bark systems are cleaned and inspected on a monthly basis for Facility 1 and 2; and
 - b. On January 31, 2007, returned to compliance with permitted effluent limits for Facility 1 and 2.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that Contractor's Supplies has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facilities, Contractor's Supplies is alleged to have:

1. Failed to comply with the permitted effluent limits for Facility 1, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1) and General Permit No. 110319, Permit Requirements, as documented during a record review conducted on March 9, 2007. Specifically, the Total Suspended Solids ("TSS") daily maximum concentration for the reporting period ending on November 30, 2006 was 138 milligrams per liter ("mg/L") and the daily maximum concentration for the the reporting period ending on December 31, 2006 was 113.7 mg/L, which exceeded the 65 mg/L permitted limit for TSS.
2. Failed to comply with the permitted effluent limits for Facility 2, in violation of TEX. WATER CODE § 26.121(a), 30 TEX. ADMIN. CODE § 305.125(1) and General Permit No. 110197, Permit Requirements, as documented during a record review conducted on March 9, 2007. Specifically, the TSS daily maximum concentration for the reporting period ending on November 30, 2006 for Outfall 001A was 138.3 mg/L and for Outfall 003A was 138.3 mg/L. The TSS daily maximum concentration for the the reporting period ending on December 31, 2006 for Outfall 001A was 139 mg/L, which exceeded the 65 mg/L permitted limit for TSS.

III. DENIALS

Contractor's Supplies generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that Contractor's Supplies pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and Contractor's Supplies' compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Contractor's Supplies, Inc., Docket No. 2007-0622-IWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. The provisions of this Agreed Order shall apply to and be binding upon Contractor's Supplies. Contractor's Supplies is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the operations referenced in this Agreed Order.
3. This Agreed Order, issued by the Commission, shall not be admissible against Contractor's Supplies in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

4. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
5. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to Contractor's Supplies, or three days after the date on which the Commission mails notice of the Order to Contractor's Supplies, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

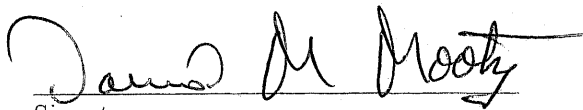
7/25/07
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity, if any, indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that my failure to comply with the Ordering Provisions, if any, in this order and/or my failure to timely pay the penalty amount, may result in:

- A negative impact on my compliance history;
- Greater scrutiny of any permit applications submitted by me;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions against me;
- Automatic referral to the Attorney General's Office of any future enforcement actions against me; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

5/9/07
Date

David M. Moaty
Name (Printed or typed)
Authorized Representative of
Contractor's Supplies, Inc.

President
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

10/2/77

10/2/77